

T5611 PROTESTED

T 67031

Protested 3/16/2000

Page 1 of 10

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 5611

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant Everett T. Acor, Jr. Phone (208) 523-0620
Post Office address P.O. Box 50130, Idaho Falls, ID 83405

A. PURPOSE OF TRANSFER

- ☐ Change point of diversion
 ☐ Add diversion point(s)
 ☒ Change place of use
☐ Change nature of use
 ☐ Change period of use
 ☐ Other _____
- Describe the reason for the proposed changes To divide water rights to conform to division of land as a result of sale of land by Acors to Cannons

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

- | Right Number | Priority | Amount
(cfs/ac-ft) | Nature
of Use | Period of Use |
|------------------|-------------------|-----------------------|-------------------|------------------------------|
| <u>34-00692C</u> | <u>07/15/1884</u> | <u>1.60</u> | <u>Irrigation</u> | <u>04-15</u> to <u>10-15</u> |
| <u>34-02426D</u> | <u>04/06/1982</u> | <u>1.24</u> | <u>Irrigation</u> | <u>04-15</u> to <u>10-15</u> |
| <u>34-07179</u> | <u>04/06/1982</u> | <u>2.78</u> | <u>Irrigation</u> | <u>04-15</u> to <u>10-15</u> |
- Total amount of water being transferred 5.42 cubic feet per second and/or _____ acre-feet per annum.
- Source of water Big Lost River-34-00692C tributary to sinks
 Source of water Groundwater-34-02426D tributary to _____
 Source of water Groundwater-34-07179 tributary to _____
- Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	SE	SE	4	5N	26E	Butte	Moore Diversion for 34-00692C
	NE	SW	SW	28	5N	26E	Butte	Home place well for 34-02426D
02	NE	NW	NE	4	4N	26E	Butte	Dad's place well for 34-07179

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	26E	09					35	35											70 - 34-00692C
5N	26E	28										37	36						73 - 34-02426D
4N	26E	04	35	36	36	32													139 - 34-07179

Total Acres 282

6. General Information:

- a. Description of diversion system 34-00692C - headgate on canal with sprinkler system
34-02426D - well and pump to hand line sprinklers
34-07179 - well and pump to wheel line sprinklers
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? Yes No No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the effect on the land now irrigated if the place of use is changed pursuant to this transfer:
There will be no effect
- d. Remarks:
A copy of the Agreement for Division of Water Rights and Related Property Rights between Acors and Cannons is attached.

ACTION OF THE DIRECTOR DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____ and said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 1999.

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. R34-07179

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	04/01 to 11/01	2.78 CFS

SOURCE

GROUNDWATER

Priority: 04/06/1982

LOCATION OF POINT(S) OF DIVERSION: Lot 2 (NENWNE), Sec. 4, Township 04N, Range 26E
BUTTE County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>		<u>ACRES</u>		<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>		
03N	25E	12		NENE	39	NWNE	40	SWNE	40	
				SENE	39	NENW	40	NWNW	40	
				SWNW	40	SENW	40	NESW	31	
				NWSW	32	SWSW	31	SESW	32	
				NESE	39	NWSE	40	SWSE	36	
				SESE	36					595
	26E	17		NENE	11	NWNE	25	NENW	37	
				NWNW	39	SWNW	13	SENW	5	130
		18		NENE	35	NWNE	39	SWNE	36	
				SENE	25	NENW	38	NWNW	26	
				SWNW	37	SENW	40	NESW	17	
				NWSW	10	NWSE	2			305
04N	25E	35		NENE	40	NWNE	40	SWNE	40	
				SENE	40	NESW	20	SESW	20	
				NESE	40	NWSE	40	SWSE	40	
				SESE	40					360
		36		NENE	38	NWNE	40	SWNE	40	
				SENE	39	NENW	40	NWNW	40	
				SWNW	40	SENW	40	NESW	40	
				NWSW	40	SWSW	40	SESW	40	
				NESE	39	NWSE	40	SWSE	40	
				SESE	39					635
	26E	4	Lot 1	(NENE)	35	Lot 2	(NWNE)	36	SWNE	36
				SENE	32					139
05N	26E	33		NENE	14	NWNE	36			50
						Total number of acres irrigated:				2214

Claim No. R34-07179

CONDITIONS/REMARKS:

1. RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. PRIORITY DATE CHANGED TO PREVENT INJURY FROM CHANGE IN USE.
3. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 8087.5 AF IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 34-12376, 34-02426C, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-02330B, 34-07077, AND 34-07120.
4. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2307 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-12376, 34-02426C, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-02330B, 34-07077, 34-07120, 34-00618, 34-00692C, 34-00256 AND 34-00416.
5. RIGHT NO. 34-07201 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
6. WATER DELIVERED THROUGH WEST-SIDE WEST CANAL TO TIMBERDOME CANAL.

Describe any other water rights used for the same purpose as described above:

To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? _____ If yes, describe:

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☐ Other _____

A. DESCRIPTION OF RIGHT AS RECORDED:

Claim No. R34-00692C

STAGE: DECREED

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
IRRIGATION	05/01 to 10/15	1.60 CFS

<u>SOURCE</u>	<u>TRIBUTARY OF</u>
BIG LOST RIVER	SINKS

Priority: 07/15/1884

LOCATION OF POINT(S) OF DIVERSION: NESESE , Sec. 4, Township 05N, Range 26E
BUTTE County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
04N	26E	9	NENW 35	NWNW 35		70
Total number of acres irrigated:						70

CONDITIONS/REMARKS:

1. RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE WATERMASTER FOR WATER DISTRICT 34.
3. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2307 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-12376, 34-02426C, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077, 34-07120, 34-00618, 34-02330B, 34-00256 AND 34-00416.
4. WATER DELIVERED THROUGH THE MOORE DIVERSION, WESTSIDE DITCH.

Describe any other water rights used for the same purpose as described above:

To your knowledge has any portion of this water right undergone a period of five or more consecutive years of non-use? _____ If yes, describe:

Claim No. R34-00692C

Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☐ Other _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. 5609 \ 34-02426 D which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Ground water tributary to _____

4. Date or priority 4/06/1982

5. Water is used for the following purpose:

amount 1.24 cfs for Irrigation purposes from 4-15 to 10-15
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 1.24 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
				<u>SW 28</u>	<u>5N</u>	<u>26E</u>	<u>Butte</u>	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
																			<u>69</u>

Total acres 69

9. Describe any other water rights used for the same purpose as described above _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

_____ If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Acres _____

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3**

- A. Draw a map or attach a USGS map indication the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.

SEE ATTACHED MAP																			
------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

SCALE: 2 inches equal 1 mile. Draw plan in ink.

B. CHANGES IN NATURE OF USE

1. New Nature of Use Amount Hours/days/year Period of Use
(cfs/ac-ft)

_____ to _____
_____ to _____

2. Quantity and quality of return flows and location of discharge:

There are no return flows

3. Describe effects on other water uses resulting from the proposed change:

There will be no effects on other water uses resulting from the proposed change.

I hereby asset that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Ernest J. Acosta
(Signature of Applicant)

Subscribed and sworn to before me this 11th day of November, 1999.

Scott M. Vukobratovic
Notary Public

My Commission Expires 11/30/2004

FOR DEPARTMENT USE ONLY

Transfer contains 10 pages and _____ attachments

Received by HLF Date 11-17-99 Protest filed by _____

Prelim. check by _____ Fee \$100.00

Receipted by HLF #E025479 Date 11-17-99

Published in ARCO Advertiser Copies of protest forwarded by _____

Pub. dates Dec 23 & 30, 1999 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd _____ by _____

Copy of transfer sent to lien holder _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

*Rec'd C...
Ship*

May 11, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Everett Acor
Kurt Acor
Cannon Shelley Property Limited Partnership
c/o Kent Foster
P.O. Box 50130
Idaho Falls, ID 83405

RECEIVED

MAY 15 2000

Department of Water Resources
Eastern Region

Re: Transfer Nos. 5609 and 5611

Dear Transfer Applicants:

The Department of Water Resources (department) has issued the enclosed **Preliminary Order** pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.**

Please note that water right owners are required to report any change of water right ownership and/or change of mailing address to the department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the department or visit our homepage on the Internet to obtain the proper reporting form.

If you have any questions, please call me at (208)327-7953.

Sincerely,

Deborah Drew-Ellis

Deborah Drew-Ellis
Administrative Assistant
Water Allocation Bureau

Enclosures

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION)
FOR TRANSFER NOS. 5609 AND)
5611 IN THE NAME OF CANNON)
SHELLEY PROPERTY LIMITED)
PARTNERSHIP, EVERETT T. ACOR)
AND KURT P. ACOR)
_____)

PRELIMINARY ORDER

FINDINGS OF FACT

1. On November 1, 1999, Cannon Shelley Property, Everett T. Acor and Kurt P. Acor ("applicants") filed Application for Transfer Nos. 5609 and 5611 ("applications") with the Idaho Department of Water Resources ("Department"). The applications were subsequently protested by Lawrence R. Babcock ("Babcock") representing the Big Lost River Water Users Association ("protestant").

2. On February 15, 2000, the Department conducted a conference in connection with the applications. As a result of the conference, on March 20, 2000, the Department issued an Order to Show Cause Why Protests Should Not be Dismissed.

3. On April 5, 2000, Babcock filed a Response to Order to Show Cause and on the same day, the Department issued an Order Dismissing Protests in connection with the applications.

4. On April 14, 2000, Babcock filed a Motion For Disqualification of the hearing officer in connection with a scheduled water right hearing and a Motion for Reconsideration, both on behalf of the protestant.

CONCLUSIONS OF LAW

1. IDAPA Rule 37.01.01750 (Rule of Procedure 750) provides in pertinent part as follows:

If an order does not designate itself as recommended, preliminary or final at its release, but is designated as recommended, preliminary or final after its release, its effective date for purposes of reconsideration or appeal is the date of the order of designation.

2. IDAPA Rule 37.01.01203 (Rule of Procedure 203) provides as follows:

From the time a party files its initial pleadings in a contested case, that party must serve and all other parties must serve all future documents intended to be part of the agency record upon all other parties' representatives designated pursuant to Rule 200, unless otherwise directed by order or notice or by the presiding officer on the record. The presiding officer may order parties to serve past documents filed in the case upon those representatives. The presiding officer may order parties to serve past and future documents filed in the case upon persons not parties to the proceeding before the agency.

3. IDAPA Rule 37.01.01202.01.d (Rule of Procedure 202.01.d) provides in pertinent part as follows:

d. A municipal corporation, local government agency, unincorporated association or nonprofit organization may be represented by an officer, duly authorized employee, or attorney.

4. The Order Dismissing Protests issued by the Department on April 5, 2000, was not designated as described in Procedure Rule 750.

5. Neither Babcock nor the protestant provided proof of service of its motions dated April 14, 2000, upon the other parties of record as required by Procedure Rule 203.

6. The Department should designate its April 5, 2000 order and either Babcock or the protestant should show proof of past service to the other parties of record. In addition, Babcock should be required to either show that he is authorized to represent the protestant or to practice law or to clarify that he is the protestant on his own behalf.

ORDER

IT IS THEREFORE HEREBY ORDERED that the order of the Department dated April 5, 2000 is designated as a Preliminary Order and will be considered served as of the service date of this order.

IT IS FURTHER HEREBY ORDERED that for the Department to consider the motions filed by Babcock on behalf of the Big Lost River Water Users Association that Babcock take the following actions within fourteen (14) days of the service date of this order or the motions of the protestant and/or Babcock will be considered summarily rejected for failure to comply with the rules of procedure:

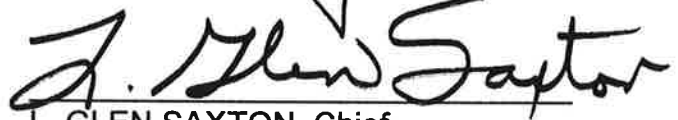
1. Provide evidence to the Department to show that the other parties have been properly served with the following documents:

Response to Order to Show Cause dated April 5, 2000
Motion For Disqualification dated April 14, 2000
Motion for Reconsideration dated April 14, 2000

2. Provide evidence to show the charter or designation document for the Big Lost River Water Users Association including the purpose of the association, its bylaws and current officers.
3. Provide authority to show that Babcock is authorized to represent the protestant in a legal capacity or clarify that he is the protestant representing himself.

The Department will not further consider the pleadings of Babcock or of the protestant if Babcock fails to timely respond or fails to adequately provide the information requested in this order.

Dated this 11th day of May, 2000.



L. GLEN SAXTON, Chief
Water Allocation Bureau

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that on this 11th day of May, 2000, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

Everett Acor
Kurt Acor
Cannon Shelley Property Limited Partnership
c/o Kent Foster
P.O. Box 50130
Idaho Falls, ID 83405

A handwritten signature in cursive script, reading "Deborah Drew-Ellis", written over a horizontal line.

Deborah Drew-Ellis
Administrative Assistant
Water Allocation Bureau

Responding To Preliminary Orders Issued By The Idaho Department Of Water Resources

The accompanying order is a **Preliminary Order** issued by the Idaho Department of Water Resources (department) pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of this order. The hearing officer will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding to the Director. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have fourteen (14) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.